



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 11/29/2023

ITEM NO: 1

ADDENDUM

DATE: November 28, 2023
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider and Make a Recommendation to the Town Council on the Draft Revised 2023-2031 Housing Element. Location: Town-Wide. General Plan Amendment Application GP-22-003.

REMARKS:

Exhibit 5 contains a table demonstrating that the Draft Revised Housing Element (November 2023) contains each of the elements mandated by State law.

Exhibit 6 contains a Draft Resolution for adoption by the Planning Commission should a majority vote to recommend adoption of the Draft Revised Housing Element (November 2023) to the Town Council.

On November 16, 2023, the Draft Revised Housing Element (November 2023) was made available for a seven-day review period, ending on November 27, 2023, as required prior to resubmittal to the Department of Housing and Community Development (HCD). Exhibit 7 contains the one public comment letter received from the Los Gatos Community Alliance ("LGCA"). The public comments provided during the seven-day public comment period above were considered and it was determined that no revisions were required to the Draft Revised 2023-2031 Housing Element (November 2023). The following provides staff's response to each public comment submitted.

- 1) LGCA Comment #1, Table 10-3: The method for calculating the percentage of the surplus is consistent with other Santa Clara County jurisdictions who have received certification of their Housing Element. Additionally, this method has been utilized by the Town's Housing Element consultant with approximately 40 jurisdictions who have received certification of their Housing Element. The buffer of 25 percent, as identified in Implementation Program AS is a reflection of the March 2023 version of the Draft Revised Housing Element and could

PREPARED BY: Erin Walters and Jocelyn Shoopman
Associate Planners

Reviewed by: Planning Manager, Community Development Director, and Town Attorney

REMARKS (continued):

be revised to reflect the November 2023 version of the Draft Revised Housing Element, which provides a 24 percent buffer.

- 2) LGCA Comment #2, Projected ADU Affordability: The income and affordability distribution of ADU's in the Housing Element was based on a technical memorandum prepared by the Association of Bay Area Governments (ABAG), titled 'Using ADU's to Satisfy RHNA Technical Memo.' The ABAG information provided by the LGCA was a draft version. The Town is utilizing the recommended percentages, provided in the final version of the ABAG technical memorandum.
- 3) LGCA Comment #3, SB 330 Impact: The Town has received direction from HCD that No Net Loss law is only applicable once a project has been approved. The preliminary and formal SB 330 applications that the Town has received have not been approved. If and when a formal application is submitted and the project is approved, that will trigger the "no net loss" requirements, and the Town will comply with the "no net loss" requirements.
- 4) LGCA Comment #4, No Net Loss Buffer: As discussed in the response to comment #3, the Town has received direction from HCD that No Net Loss law is only applicable once a project has been approved. The preliminary and formal SB 330 applications that the Town has received have not been approved. If and when a formal application is submitted and the project is approved that will trigger the "no net loss" requirements, and the Town will comply with the "no net loss" requirements.
- 5) LGCA Comment #5, Program References to Town's Affordable Housing In Lieu Fund: The Below Market Price (BMP) housing in-lieu fees must be used for affordable housing purposes and are allocated as directed by the Town Council as part of the budgeting process. Every year the Town Council identifies their strategic priorities as an initial step in the budget development process. The Town Council has made affordable housing partnerships a 2023-2025 Strategic Priority.

On November 28, 2023, the Town resubmitted the Draft Revised Housing Element (November 2023) to HCD for review and comment. Exhibit 8 contains the cover letter included in the resubmittal to HCD. The entirety of the materials provided to HCD can be viewed online at: www.losgatosca.gov/HousingElement.

Exhibit 9 contains a public comment that was erroneously not included in the November 29, 2023, Planning Commission staff report packet.

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SUBJECT: DRAFT REVISED 2023-2031 HOUSING ELEMENT/GP-22-003

DATE: November 28, 2023

EXHIBITS:

Previously received (available online at: www.losgatosca.gov/HousingElement):

1. Environmental Analysis
2. Draft Revised 2023-2031 Housing Element (November 2023)
3. Response Memorandum to the HCD Draft Preliminary Review Matrix

Previously received with the November 29, 2023, Staff Report:

4. Public Comment received between 11:01 a.m., Wednesday, November 15, 2023, and 11:00 a.m., Wednesday, November 22, 2023

Received with this Addendum Report:

5. Substantial Compliance with Housing Element Law (Government Code Title 7, Division 1, Chapter 3, Article 10.6 [65580–65589.11])
6. Draft Resolution for Adoption of the Draft Revised Housing Element (November 2023)
7. Public Comments Received During the Seven-Day Review Period
8. HCD Cover Letter
9. Public Comment Received on November 21, 2023

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Required Findings of Substantial Compliance with State Housing Element (HE) Law

Sec. 65583. *the housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobile homes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:*

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
1	65583(a)	An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:	Quantification and Analysis of Need	Housing Needs: Chapter 10, pages 10-16 through 10-31. Appendix A, pages A-109 through A-167. The entirety of Appendix B.	Yes
2	65583(a)(1)	1) An analysis of population and employment trends and documentation of projections. 2) A quantification of the locality's existing and projected housing needs for all income levels, including extremely low-income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. 3) These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low-income households allotted under Section 65584 that qualify as extremely low-income households. The local agency may either use available census data to calculate the percentage of very low-income households that qualify as extremely low-income households or presume that 50 percent of the very low-income households qualify as extremely low-income households. The number of extremely low-income households and very low-income households shall equal the jurisdiction's allocation of very low-income households pursuant to Section 65584.	Quantification and Analysis of Need	1) Appendix B, pages B-7 through B-13 and Chapter 10, page 10-23 2) Appendix A, pages A-2 and A-111 through A-113 3) Appendix A, pages A-111 through A-113. Supporting details are provided in Appendix A.	Yes
3	65583(a)(2)	An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.	Quantification and Analysis of Need	<u>Cost Burden</u> : Appendix A, pages A-109 through A-123 and pages A-161 through A-164. Appendix B, pages B-32 through B-36. <u>Housing adequacy and age of structures</u> : Appendix A, page A-139 through A-140. Appendix B, pages B-22 through B-23. <u>Substandard housing</u> : Appendix A, pages 132 through A-138. Appendix B, pages B-25 through B-27. <u>Overcrowding</u> : Appendix A, pages A-123 through A-130 and page A-165. Appendix B,	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
				pages B-32 through B-39. <u>Household characteristics</u> : Appendix B, pages B-3 through B-21.	
4	65583(a)(3)	An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites, and an analysis of the relationship of the sites identified in the land inventory to the jurisdiction's duty to affirmatively further fair housing.	Quantification and Analysis of Need	Appendix D, pages D-2 through D-67. Appendix C, pages C-1 through C-15 and page C-53. Appendix A, pages A-152 through A-161.	Yes
5	65583(a)(4)(A)	The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:	Zoning for a Variety of Housing Types	Chapter 10, Implementation Program AP, pages 10-64 through 10-65. Appendix B, pages B-55 through B-56. Appendix C, pages C-59 through C-60. Estimated homeless count and capacity: Appendix C, page C-59.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
6	65583(a)(4)(A)(i)	The maximum number of beds or persons permitted to be served nightly by the facility.	Zoning for a Variety of Housing Types	Appendix C, pages C-59 through C-60.	Yes
7	65583(a)(4)(A)(ii)	Sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone.	Zoning for a Variety of Housing Types	Chapter 10, Implementation Program AP, pages 10-64 through 10-65 and further described in Appendix C, page C-59.	Yes
8	65583(a)(4)(A)(iii)	The size and location of exterior and interior onsite waiting and client intake areas.	Zoning for a Variety of Housing Types	Chapter 10, Implementation Program AP, pages 10-64 through 10-65 indicates that the Town shall amend the Town Code to align with all State requirements on the provision of emergency shelters.	Yes
9	65583(a)(4)(A)(iv)	The provision of onsite management.	Zoning for a Variety of Housing Types	Chapter 10, Implementation Program AP, pages 10-64 through 10-65 indicates that the Town shall amend the Town Code to align with all State requirements on the provision of emergency shelters.	Yes
10	65583(a)(4)(A)(v)	The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.	Zoning for a Variety of Housing Types	Chapter 10, Implementation Program AP, pages 10-64 through 10-65 indicates that the Town shall amend the Town Code to align with all State requirements on the provision of emergency shelters.	Yes
11	65583(a)(4)(A)(vi)	The length of stay.	Zoning for a Variety of Housing Types	Definition of emergency shelter provided in Appendix C, page C-59 and Chapter 10, Implementation Program AP, pages 10-64 through 10-65 indicates that the Town shall amend the Town Code to align with all State requirements on the provision of emergency shelters.	Yes
12	65583(a)(4)(A)(vii)	Lighting.	Zoning for a Variety of Housing Types	Chapter 10, Implementation Program AP, pages 10-64 through 10-65 indicates that the Town shall amend the Town Code to align with all State requirements on the provision of emergency shelters.	Yes
13	65583(a)(4)(A)(viii)	Security during hours that the emergency shelter is in operation.	Zoning for a Variety of Housing Types	Chapter 10, Implementation Program AP, pages 10-64 through 10-65 indicates that the Town shall amend the Town Code to align with all State requirements on the provision of emergency shelters.	Yes
14	65583(a)(4)(B)	The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act	Zoning for a Variety of Housing	Chapter 10, Implementation Program AP, pages 10-64 through 10-65 indicates that the Town shall amend the Town Code to align with all	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
		(Division 13 (commencing with Section 21000) of the Public Resources Code).	Types	State requirements on the provision of emergency shelters.	
15	65583(a)(4)(C)	A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.	Zoning for a Variety of Housing Types	Capacity to accommodate emergency shelters and zones where they are permitted by-right discussed in Appendix C, page C-59.	Yes
16	65583(a)(4)(D)	A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.	Zoning for a Variety of Housing Types	Chapter 10, Implementation Program AP, pages 10-64 through 10-65 indicates that the Town shall amend the Town Code to align with all State requirements on the provision of emergency shelters.	Yes
17	65583(a)(5)	An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7).	Actual and Potential Governmental Constraints	Supportive housing, transitional housing, and emergency shelters: Appendix C, pages C-16 through C-12 and Chapter 10, Implementation Program AP, pages 10-64 through 10-65 indicates that the Town shall amend the Town Code to align with all State requirements on the provision of transitional and supportive housing. <u>Disabled</u> : Chapter 10, Implementation Program AP, page 10-65 indicates the Town will prioritize special needs housing by allowing for reduced processing times and streamlined procedures for applicable zoning/land use applications. Include preferential handling of special needs populations in management plans and regulatory agreements of funded projects.	Yes
18	65583(a)(6)	An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Section 65584. The analysis shall also demonstrate local efforts to remove	Potential and Actual Nongovernmental Constraints	Appendix C, pages C-60 through C-64.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
		nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing.			
19	65583(a)(7)	An analysis of any special housing needs, such as those of the elderly; persons with disabilities, including a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on the capacity necessary to accommodate the most recent homeless point-in-time count conducted before the start of the planning period, the need for emergency shelter based on number of beds available on a year-round and seasonal basis, the number of shelter beds that go unused on an average monthly basis within a one-year period, and the percentage of those in emergency shelters that move to permanent housing solutions. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period. An analysis of special housing needs by a city or county may include an analysis of the need for frequent user coordinated care housing services.	Housing Needs for Special Needs Populations	<u>Special Needs</u> : Appendix A, pages A-34 through A-72. <u>Emergency shelter capacity based on point in time homeless count</u> : Appendix C, page C-59.	Yes
20	65583(a)(8)	An analysis of opportunities for energy conservation with respect to residential development. Cities and counties are encouraged to include weatherization and energy efficiency improvements as part of publicly subsidized housing rehabilitation projects. This may include energy efficiency measures that encompass the building envelope, its heating and cooling systems, and its electrical system.	Miscellaneous	Chapter 10, pages 10-34 through 10-35 and Implementation Program AK, page 10-61.	Yes
21	65583(a)(9)	An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing	Affordable Housing Units At-Risk of Conversion	Appendix A, pages A-29 through A-31 and Appendix B, pages B-24 through B-25.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
		program or used to qualify for a density bonus pursuant to Section 65916.			
22	65583(a)(9)(A)	The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use, and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.	Affordable Housing Units At- Risk of Conversion	Appendix A, pages A-29 through A-31 and Appendix B, pages B-24 through B-25.	N/A
23	65583(a)(9)(B)	The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.	Affordable Housing Units At-Risk of Conversion	The Town has no deed restricted affordable units at risk of conversion to market rate housing.	N/A
24	65583(a)(9)(C)	The analysis shall identify public and private nonprofit corporations known to the local government that have legal and managerial capacity to acquire and manage these housing developments.	Affordable Housing Units At-Risk of Conversion	The Town has no deed restricted affordable units at risk of conversion to market rate housing.	N/A
25	65583(a)(9)(D)	The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs that can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program that have not been legally obligated for other purposes and that could be available for use in preserving assisted housing developments.	Affordable Housing Units At-Risk of Conversion	The Town has no deed restricted affordable units at risk of conversion to market rate housing.	N/A
26	65583(b)(1)	A statement of the community's goals, quantified objectives, and policies relative to affirmatively furthering fair housing and to the maintenance, preservation, improvement, and development of housing.	Public Participation	Chapter 10, pages 10-35 through 10-40, Implementation Program AT on page 10-69, and pages 10-73 through 10-75.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
27	65583(b)(2)	It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.	Quantification and Analysis of Need	Table 10-4 of Chapter 10, page 10-34.	Yes
28	65583(c)	A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:	Schedule of Actions/Programs	<u>Timeframe</u> : Chapter 10, pages 10-41 through 10-72. <u>Regulatory incentives and concessions</u> : Chapter 10, Policy HE-3.1 on page 10-38 and Implementation Programs N, O, and Q.	Yes
29	65583(c)(1)	Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to affirmatively further fair housing and to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.	Schedule of Actions/Programs	Chapter 10, Implementation Program C on pages 10-40 through 10-41.	Yes
30	65583(c)(1)(A)	Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department	Schedule of Actions/Programs	Chapter 10, Implementation Programs AQ and AR on pages 10-66 through 10-68 for the rezonings that were adopted by the Town Council on November 21, 2023.	Yes

	Government Code Section (Reference)	General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
31	65583(c)(1)(B)	Schedule of Actions/Programs	Chapter 10, Implementation Programs AQ and AR on pages 10-66 through 10-68 for the rezonings that were adopted by the Town Council on November 21, 2023.	Yes
32	65583(c)(1)(C)	Schedule of Actions/Programs	Chapter C, page C-60 for discussion that there are not any permanent or seasonal farmworkers living in Los Gatos nor any migrant worker student populations. Implementation Program AP, pages 10-64 through 10-65 states that the Town will modify the Town Code to allow Employee Housing per Health and Safety Code Section 17000, et seq.	Yes
33	65583(c)(2)	Schedule of Actions/Programs	Chapter 10, Implementation Programs N, O, P, and T.	Yes
34	65583(c)(3)	Schedule of Actions/Programs	Chapter 10, Policies HE-3.1 through HE-3.5 and Implementation Programs K, J, L, O, Q, AA, AB, AC, AP, and AW. Chapter 10, Implementation Program AP, pages 10-64 through 10-65 indicates that the Town shall amend the Town Code to align with all State requirements on the provision of emergency shelters.	Yes
35	65583(c)(4)	Schedule of Actions/Programs	Chapter 10, Implementation Programs I, P, AG, AI, and AJ.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
36	65583(c)(5)	Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law.	Schedule of Actions/Programs	Chapter 10, Implementation Programs I, N, O, P, T, U, V, X, and AT.	Yes
37	65583(c)(6)	Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.	Schedule of Actions/Programs	Chapter 10, Implementation Programs AG on page 10-59.	Yes
38	65583(c)(7)	Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2.	Schedule of Actions/Programs	Chapter 10, Implementation Programs Q on pages 10-49 through 10-50.	Yes
39	65583(c)(8)	Include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals.	Schedule of Actions/Programs	Chapter 10, Section 10.6 Implementation Programs, pages 10-41 through 10-72.	Yes
40	65583(c)(9)	Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.	Public Participation	Chapter 10, page 10-10 through 10-16 and Appendix I for additional details.	Yes
41	65583(c)(10)(A)	Affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. The program shall include an assessment of fair housing in the jurisdiction that shall include all of the following components:	Affirmatively Further Fair Housing	See Appendix A for supporting details of the Fair Housing Analysis.	Yes
42	65583(c)(10)(A)(i)	A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity.	Affirmatively Further Fair Housing	Appendix A, page A-20 through A-28 and A-67 through A-72.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
43	65583(c)(10)(A)(ii)	An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty and affluence, disparities in access to opportunity, and disproportionate housing needs, including displacement risk. The analysis shall identify and examine such patterns, trends, areas, disparities, and needs, both within the jurisdiction and comparing the jurisdiction to the region in which it is located, based on race and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2) and Section 65008.	Affirmatively Further Fair Housing	Appendix A, pages A-34 through A-72.	Yes
44	65583(c)(10)(A)(iii)	An assessment of the contributing factors, including the local and regional historical origins and current policies and practices, for the fair housing issues identified under clauses (i) and (ii).	Affirmatively Further Fair Housing	Appendix A, pages A-16 through A-28.	Yes
45	65583(c)(10)(A)(iv)	An identification of the jurisdiction’s fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved.	Affirmatively Further Fair Housing	Chapter 10, pages 10-73 through 10-75. Appendix A, pages A-67 through A-72 and pages A-167 through A-171.	Yes
46	65583(c)(10)(A)(v)	Strategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.	Affirmatively Further Fair Housing	Chapter 10, pages 10-73 through 10-75.	Yes
47	65583(c)(10)(B)	A jurisdiction that completes or revises an assessment of fair housing pursuant to Subpart A (commencing with Section 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal Regulations, as published in Volume 80 of the Federal Register, Number 136, page 42272, dated July 16, 2015, or an analysis of impediments to fair housing choice in accordance with the requirements of Section 91.225 of Title 24 of the Code of Federal Regulations in effect before August 17, 2015, may incorporate relevant portions of that assessment or revised assessment of fair housing or analysis or revised analysis of impediments to fair housing into its housing element.	Affirmatively Further Fair Housing	Appendix G.	Yes
48	65583(c)(10)(C)	The requirements of this paragraph shall apply to housing elements due to be revised pursuant to Section 65588 on or after January 1, 2021.	Affirmatively Further Fair Housing	Noted.	Yes
49-72	65583(d) - (j)	N/A - The Town relies on its own zoning to demonstrate capacity for emergency shelters. See above.	Zoning for a Variety of Housing Types	Chapter 10, Implementation Program AP, pages 10-64 through 10-65 indicates that the Town shall amend the Town Code to align with all State requirements on the provision of emergency shelters.	N/A
73	65583.1(a)	The Department of Housing and Community Development, in evaluating	Methods for	Land Use/Rezoning Changes: Chapter 10,	Yes

Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
		identifying adequate sites/ site inventory	Implementation Programs AQ and AR to create and apply the Housing Element Overlay Zone to apply to the sites included in the Site Inventory to modify the development standards (i.e., density, lot coverage, FAR, height) on those sites. ADUs: Based on the average of ADU building permits issued between the years 2020 to 2022, Appendix D, pages D-68 through D-69.	
74-115	65583.1(b) - (c)	The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 where the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following: (A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision. (B) Indicate the number of units that will be provided to both low- and very low-income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents. (C) Demonstrate that the units meet the requirements of paragraph (2).	Methods for identifying adequate sites/ site inventory	N/A
116	65583.1(d)	A city or county may reduce its share of the regional housing need by the number of units built between the start of the projection period and the deadline for adoption of the housing element. If the city or county reduces its share pursuant to this subdivision, the city or county shall include in the housing element a description of the methodology for assigning those housing units to an income category based on actual or projected sales price, rent levels, or other mechanisms establishing affordability.	Methods for identifying adequate sites/ site inventory	Chapter 10, page 10-33. Appendix D, pages D-2 and D-72.

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
117	65583.2(a)	A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (10) of subdivision (c) of Section 65583, that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following sites that meet the standards set forth in subdivisions (c) and (g):	Inventory of land suitable for development/vacant sites	Appendix D.	Yes
118	65583.2(a)(1)	Vacant sites zoned for residential use.	Inventory of land suitable for development/vacant sites	Appendix D, pages D-10 through D-12.	Yes
119	65583.2(a)(2)	Vacant sites zoned for nonresidential use that allows residential development.	Inventory of land suitable for development/vacant sites	Appendix D, pages D-10 through D-14.	Yes
120	65583.2(a)(3)	Residentially zoned sites that are capable of being developed at a higher density, including sites owned or leased by a city, county, or city and county.	Inventory of land suitable for development/vacant sites	Appendix D, pages D-4 through D-8.	Yes
121	65583.2(a)(4)	Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, rezoned for, to permit residential use, including sites owned or leased by a city, county, or city and county.	Inventory of land suitable for development/vacant sites	Chapter 10, Implementation Programs AQ and AR, pages 10-66 through 10-68 to create and apply the Housing Element Overlay Zone (HEOZ) to apply to the sites included in the Site Inventory to modify the development standards (i.e., density, lot coverage, FAR, height) on those sites. The rezonings were adopted by the Town Council on November 21, 2023.	Yes
122	65583.2(b)	The inventory of land shall include all of the following:	Inventory of land suitable for development/vacant sites	Appendix D, Sites Inventory Analysis and Appendix H, Sites Inventory Form.	Yes
123	65583.2(b)(1)	A listing of properties by assessor parcel number.	Inventory of land suitable for development/vacant sites	Appendix D, Sites Inventory Analysis and Appendix H, Sites Inventory Form.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
124	65583.2(b)(2)	The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.	Inventory of land suitable for development/ vacant sites	Appendix D, Sites Inventory Analysis and Appendix H, Sites Inventory Form.	Yes
125	65583.2(b)(3)	For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.	Inventory of land suitable for development/ vacant sites	Appendix D, Sites Inventory Analysis and Appendix H, Sites Inventory Form.	Yes
126	65583.2(b)(4)	A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.	Inventory of land suitable for development/ vacant sites	Appendix C, pages C-54 through C-56.	Yes
127	65583.2(b)(5)(A)	A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.	Inventory of land suitable for development/ vacant sites	Appendix C, pages C-62 through C-64.	Yes
128	65583.2(b)(5)(B)	Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.	Inventory of land suitable for development/ vacant sites	Appendix H, Sites Inventory Form.	Yes
129	65583.2(b)(6)	Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.	Inventory of land suitable for development/ vacant sites	N/A	N/A
130	65583.2(b)(7)	A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan, for reference purposes only.	Inventory of land suitable for development/ vacant sites	Appendix D, pages D-15 through D-67.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
131	65583.2(c)	Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. Notwithstanding the foregoing, for a local government that fails to adopt a housing element that the department has found to be in substantial compliance with state law within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning pursuant to this subdivision shall be completed no later than one year from the statutory deadline in Section 65588 for adoption of the housing element. An unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing, and whether the inventory affirmatively furthers fair housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:	Inventory of land suitable for development/ vacant sites	<p>Chapter 10, Implementation Programs AQ and AR, pages 10-66 through 10-68 to create and apply the Housing Element Overlay Zone (HEOZ) to apply to the sites included in the Site Inventory to modify the development standards (i.e., density, lot coverage, FAR, height) on those sites. The rezonings were adopted by the Town Council on November 21, 2023.</p> <p>Chapter 10, Implementation Programs AR and AS, pages 10-68 through 10-69, states that the following types of sites used to fulfill the Town's lower income RHNA will be subjected to by-right approval without discretionary review pursuant to Government Code section 65583.2(H) and (I) when 20 percent or more of the units are affordable to lower income households:</p> <ul style="list-style-type: none"> - Rezone Sites: All sites that are to be rezoned with the HEOZ, given that the rezoning occurs after the statutory deadline of the Housing Element (January 31, 2023). - Reuse Sites: Sites that were used in the 5th cycle Housing Element to meet the RHNA will be rezoned with the HEOZ. <p>Appendix C, page C-15 for the development standards for the HEOZ.</p> <p>Appendix A, pages A-167 through A-171 for analysis on how the Sites Inventory affirmatively furthers fair housing.</p>	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
132	65583.2(c)(1)	If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.	Inventory of land suitable for development/ vacant sites	The total capacity of the Sites Inventory in the Housing Element is based on the minimum density. Appendix C, page C-15 for the minimum and maximum density range permitted by the HEOZ.	Yes
133	65583.2(c)(2)	The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.	Inventory of land suitable for development/ vacant sites	The total number of units calculated in the Sites Inventory in the Housing Element is based on the minimum density. Development trends are provided in Table D-4 of Appendix D, page D-6.	Yes
134	65583.2(c)(2)(A)	A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.	Inventory of land suitable for development/ vacant sites	Appendix D, page D-13.	Yes
135	65583.2(c)(2)(B)	A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, "site" means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.	Inventory of land suitable for development/ vacant sites	N/A no sites over 10 acres.	Yes
136	65583.2(c)(2)(C)	A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.	Inventory of land suitable for development/ vacant sites	N/A	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
137	65583.2(c)(3)	For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:	Inventory of land suitable for development/ vacant sites	N/A	Yes
138	65583.2(c)(3)(A)	Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.	Inventory of land suitable for development/ vacant sites	Appendix D, pages D-3 through D-14.	Yes
139	65583.2(c)(3)(B)	The following densities shall be deemed appropriate to accommodate housing for lower income households:	Inventory of land suitable for development/ vacant sites	No response required.	N/A
140	65583.2(c)(3)(B)(i)	For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.	Inventory of land suitable for development/ vacant sites	N/A	N/A
141	65583.2(c)(3)(B)(ii)	For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.	Inventory of land suitable for development/ vacant sites	N/A	N/A
142	65583.2(c)(3)(B)(iii)	For a suburban jurisdiction: sites allowing at least 20 units per acre.	Inventory of land suitable for development/ vacant sites	N/A	N/A
143	65583.2(c)(3)(B)(iv)	For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.	Inventory of land suitable for development/ vacant sites	Chapter 10, Implementation Programs AQ and AR, pages 10-68 through 10-69 to create and apply the Housing Element Overlay Zone (HEOZ) to apply to the sites included in the Site Inventory to modify the development standards (i.e., density, lot coverage, FAR, height) on those sites, in addition to Table C-3 of Appendix C, page C-15. The rezonings were adopted by the Town Council on November 21, 2023.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
144	65583.2(c)(4)(A)	For a metropolitan jurisdiction:	Inventory of land suitable for development/ vacant sites	N/A	N/A
145	65583.2(c)(4)(A)(i)	At least 25 percent of the jurisdiction's share of the regional housing need for moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing, but not more than 100 units per acre of housing.	Inventory of land suitable for development/ vacant sites	N/A	N/A
146	65583.2(c)(4)(A)(ii)	At least 25 percent of the jurisdiction's share of the regional housing need for above moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing.	Inventory of land suitable for development/ vacant sites	N/A	N/A
147	65583.2(c)(4)(B)	The allocation of moderate-income and above moderate-income housing to sites pursuant to this paragraph shall not be a basis for the jurisdiction to do either of the following:	Inventory of land suitable for development/ vacant sites	N/A	N/A
148	65583.2(c)(4)(B)(i)	Deny a project that does not comply with the allocation.	Inventory of land suitable for development/ vacant sites	N/A	N/A
149	65583.2(c)(4)(B)(ii)	Impose a price minimum, price maximum, price control, or any other exaction or condition of approval in lieu thereof. This clause does not prohibit a jurisdiction from imposing any price minimum, price maximum, price control, exaction, or condition in lieu thereof, pursuant to any other law.	Inventory of land suitable for development/ vacant sites	N/A	N/A
150	65583.2(c)(4)(B)(iii)	The provisions of this subparagraph do not constitute a change in, but are declaratory of, existing law with regard to the allocation of sites pursuant to this section.	Inventory of land suitable for development/ vacant sites	N/A	N/A
151	65583.2(c)(4)(C)	This paragraph does not apply to an unincorporated area.	Inventory of land suitable for development/ vacant sites	N/A	N/A
152	65583.2(c)(4)(D)	For purposes of this paragraph:	Inventory of land suitable for development/ vacant sites	N/A	N/A

	Government Code Section (Reference)	General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
153	65583.2(c)(4)(D)(i)	"Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.	Inventory of land suitable for development/ vacant sites	N/A
154	65583.2(c)(4)(D)(ii)	"Unit of housing" does not include an accessory dwelling unit or junior accessory dwelling unit that could be approved pursuant to Section 65852.2 or Section 65852.22 or through a local ordinance or other provision implementing either of those sections. This paragraph shall not limit the ability of a local government to count the actual production of accessory dwelling units or junior accessory dwelling units in an annual progress report submitted pursuant to Section 65400 or other progress report as determined by the department.	Inventory of land suitable for development/ vacant sites	N/A
155	65583.2(c)(4)(E)	Nothing in this subdivision shall preclude the subdivision of a parcel, provided that the subdivision is subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land.	Inventory of land suitable for development/ vacant sites	N/A
156	65583.2(d)	For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.	Inventory of land suitable for development/ vacant sites	N/A
157	65583.2(e)(1)	Except as provided in paragraph (2), a jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.	Inventory of land suitable for development/ vacant sites	N/A

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
158	65583.2(e)(2)(A)(i)	Notwithstanding paragraph (1), if a county that is in the San Francisco-Oakland-Fremont California MSA has a population of less than 400,000, that county shall be considered suburban. If this county includes an incorporated city that has a population of less than 100,000, this city shall also be considered suburban. This paragraph shall apply to a housing element revision cycle, as described in subparagraph (A) of paragraph (3) of subdivision (e) of Section 65588, that is in effect from July 1, 2014, to December 31, 2028, inclusive.	Inventory of land suitable for development/vacant sites	N/A	N/A
159	65583.2(e)(2)(A)(ii)	A county subject to this subparagraph shall utilize the sum existing in the county's housing trust fund as of June 30, 2013, for the development and preservation of housing affordable to low- and very low-income households.	Inventory of land suitable for development/vacant sites	N/A	N/A
160	65583.2(e)(2)(B)	A jurisdiction that is classified as suburban pursuant to this paragraph shall report to the Assembly Committee on Housing and Community Development, the Senate Committee on Housing, and the Department of Housing and Community Development regarding its progress in developing low- and very low-income housing consistent with the requirements of Section 65400. The report shall be provided three times: once, on or before December 31, 2019, which report shall address the initial four years of the housing element cycle, a second time, on or before December 31, 2023, which report shall address the subsequent four years of the housing element cycle, and a third time, on or before December 31, 2027, which report shall address the subsequent four years of the housing element cycle and the cycle as a whole. The reports shall be provided consistent with the requirements of Section 9795.	Inventory of land suitable for development/vacant sites	Progress reports are provided annually to the State and reviewed annually by Town Council.	Yes
161	65583.2(f)	A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in an MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it shall be considered suburban.	Inventory of land suitable for development/vacant sites	N/A	N/A

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
162	65583.2(g)(1)	For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city's or county's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.	Inventory of land suitable for development/ vacant sites	Appendix D, pages D-2 and D-26 through D-67.	Yes
163	65583.2(g)(2)	In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.	Inventory of land suitable for development/ vacant sites	Appendix D, pages D-5 through D-12.	Yes
164	65583.2(g)(3)	Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity's valid exercise of its police power, or occupied by low- or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.	Inventory of land suitable for development/ vacant sites	Chapter 10, Implementation Program AU on page 10-71.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
165	65583.2(h)	The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right for developments in which at least 20 percent of the units are affordable to lower income households during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c) and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed use if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.	Inventory of land suitable for development/vacant sites	Chapter 10, Implementation Programs AQ and AR, pages 10-68 through 10-69 to create and apply the Housing Element Overlay Zone (HEOZ) to apply to the sites included in the Site Inventory to modify the development standards (i.e., density, lot coverage, FAR, height) provide by right development when 20 percent or more of the units are affordable to lower income households. The rezonings were adopted by the Town Council on November 21, 2023.	Yes
166	65583.2(i)	For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.	Inventory of land suitable for development/vacant sites	Chapter 10, Implementation Programs AQ and AR, pages 10-68 through 10-69 to create and apply the Housing Element Overlay Zone (HEOZ) to apply to the sites included in the Site Inventory to modify the development standards (i.e., density, lot coverage, FAR, height). The rezonings were adopted by the Town Council on November 21, 2023.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
167	65583.2(j)	Notwithstanding any other provision of this section, within one-half mile of a Sonoma-Marín Area Rail Transit station, housing density requirements in place on June 30, 2014, shall apply.	Inventory of land suitable for development/ vacant sites	N/A	N/A
168	65583.2(k)	For purposes of subdivisions (a) and (b), the department shall provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to Section 65585.	Inventory of land suitable for development/ vacant sites	N/A	N/A
169	65583.2(l)(1)	The changes to this section made by Chapter 193 of the Statutes of 2020 shall become operative on January 1, 2022.	Inventory of land suitable for development/ vacant sites	N/A	N/A
170	65583.2(l)(2)	The changes to this section made by Chapter 193 of the Statutes of 2020 shall not apply to a housing element revision that is originally due on or before January 1, 2022, regardless of the date of adoption by the local agency.	Inventory of land suitable for development/ vacant sites	N/A	N/A
171	65583.2(m)	This section shall remain in effect only until December 31, 2028, and as of that date is repealed.	Inventory of land suitable for development/ vacant sites	N/A	N/A
172	65583.3(a)	For a housing element or amendment adopted on or after January 1, 2021, the planning agency shall submit to the department an electronic copy of its inventory of land suitable for residential development developed pursuant to paragraph (3) of subdivision (a) of Section 65583 and subdivision (b) of this section with the copy of its housing element or amendment submitted pursuant to subdivision (g) of Section 65585. The local government shall ensure, to the best of its knowledge, that the inventory of land submitted to the department is true and correct.	Sites inventory	Appendix H, Sites Inventory Form.	Yes
173	65583.3(b)	Notwithstanding subdivision (a) of Section 65301, each local government shall prepare the inventory required under paragraph (3) of subdivision (a) of Section 65583 using standards, forms, and definitions adopted by the department. The department may review, adopt, amend, and repeal the standards, forms, or definitions to implement this subdivision and subdivision (a) of Section 65583. Any standards, forms, or definitions adopted to implement this subdivision and subdivision (a) of Section 65583 shall not be subject to Chapter 3.5	Sites inventory	Appendix D, Sites Inventory Analysis and Appendix I, Sites Inventory Form.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
		(commencing with Section 11340) of Part 1 of Division 3 of Title 2.			
174	65583.4(a)	Notwithstanding subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583, subdivision (c) of Section 65583.2, and subparagraph (C) of paragraph (4) of subdivision (e) of Section 65588, a local government shall have three years and 120 days from the statutory deadline in Section 65588 for adoption of the housing element to complete any rezonings required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 and subdivision (c) of Section 65583.2 if all of the following apply:	Statutory deadline/ timeframe to complete any rezonings, if applicable	Chapter 10, Implementation Programs AQ and AR, pages 10-68 through 10-69 to create and apply the Housing Element Overlay Zone (HEOZ) to apply to the sites included in the Site Inventory to modify the development standards (i.e., density, lot coverage, FAR, height). The rezonings were adopted by the Town Council on November 21, 2023.	Yes
175	65583.4(a)(1)	The statutory deadline in Section 65588 for adoption of the sixth revision of the housing element was in the 2021 calendar year.	Statutory deadline/ timeframe to complete any rezonings, if applicable	Section 65583.4 is N/A; Housing Element due January 31, 2023.	N/A
176	65583.4(a)(2)	The local government failed to adopt a sixth revision of the housing element that the department had found to be in substantial compliance with this article within 120 days of the statutory deadline in Section 65588 for adoption of the housing element.	Statutory deadline/ timeframe to complete any rezonings, if applicable	N/A	N/A
177	65583.4(a)(3)	The local government adopts a sixth revision of the housing element and the department finds the adopted element to be in substantial compliance with this article within one year of the statutory deadline established pursuant to Section 65888 for adoption of the housing element.	Statutory deadline/ timeframe to complete any rezonings, if applicable	N/A	N/A

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
178	65583.4(b)(1)	The deadline for completing required rezoning pursuant to subdivision (a) shall be extended by one year if the local government has completed the rezoning at densities sufficient to accommodate at least 75 percent of the units for low- and very low-income households and if the legislative body at the conclusion of a public hearing determines, based upon substantial evidence, that any of the following circumstances exist:	Statutory deadline/ timeframe to complete any rezonings, if applicable	N/A	N/A
179	65583.4(b)(1)(A)	The local government has been unable to complete the rezoning because of the action or inaction beyond the control of the local government of any other state, federal, or local agency.	Statutory deadline/ timeframe to complete any rezonings, if applicable	N/A	N/A
180	65583.4(b)(1)(B)	The local government is unable to complete the rezoning because of infrastructure deficiencies due to fiscal or regulatory constraints.	Statutory deadline/ timeframe to complete any rezonings, if applicable	N/A	N/A
181	65583.4(b)(1)(C)	The local government must undertake a major revision to its general plan in order to accommodate the housing-related policies of a sustainable communities strategy or an alternative planning strategy adopted pursuant to Section 65080.	Statutory deadline/ timeframe to complete any rezonings, if applicable	The Town Council certified the Environmental Impact Report and adopted the 2040 General Plan on June 30, 2022. A referendum to repeal the Land Use and Community Design Elements of the adopted 2040 General Plan was received and verified by the County Registrar. On October 4, 2022, the Town Council adopted a resolution to provide that the 2020 General Plan Land Use and Community Design Elements will govern during the period of suspension.	Yes
182	65583.4(b)(2)	The resolution and the findings shall be transmitted to the department together with a detailed budget and schedule for preparation and adoption of the required rezonings, including plans for citizen participation and expected interim action. The schedule shall provide for adoption of the required rezoning within one year of the adoption of the resolution.	Statutory deadline/ timeframe to complete any rezonings, if applicable	N/A	N/A

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
183	65584.0(a)(1)	For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the department shall determine the existing and projected need for housing for each region pursuant to this article. For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county.	AFFH/RHNA	N/A	N/A
184	65584.0(a)(2)	It is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, and reasonable actions should be taken by local and regional governments to ensure that future housing production meets, at a minimum, the regional housing need established for planning purposes. These actions shall include applicable reforms and incentives in Section 65582.1.	AFFH/RHNA	Chapter 10, Implementation Programs AQ and AR, pages 10-68 through 10-69 to create and apply the Housing Element Overlay Zone (HEOZ) to apply to the sites included in the Site Inventory to modify the development standards (i.e., density, lot coverage, FAR, height). The rezonings were adopted by the Town Council on November 21, 2023.	Yes
185	65584.0(a)(3)	The Legislature finds and declares that insufficient housing in job centers hinders the state's environmental quality and runs counter to the state's environmental goals. In particular, when Californians seeking affordable housing are forced to drive longer distances to work, an increased amount of greenhouse gases and other pollutants is released and puts in jeopardy the achievement of the state's climate goals, as established pursuant to Section 38566 of the Health and Safety Code, and clean air goals.	AFFH/RHNA	N/A	N/A
186	65584.0(b)	The department, in consultation with each council of governments, shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. The appropriate council of governments, or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a council of governments shall be prepared pursuant to Sections 65584.04 and 65584.05.	AFFH/RHNA	N/A	N/A
187	65584.0(c)	Notwithstanding any other provision of law, the due dates for the determinations of the department or for the council of governments, respectively, regarding the regional housing need may be extended by the department by not more than 60 days if the extension will enable	AFFH/RHNA	N/A	N/A

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
		access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding housing element revision deadline pursuant to Section 65588 by not more than 60 days.			
188	65584.0(d)	The regional housing needs allocation plan shall further all of the following objectives:	AFFH/RHNA	No response required.	N/A
189	65584.0(d)(1)	Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households.	AFFH/RHNA	N/A	N/A
190	65584.0(d)(2)	Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.	AFFH/RHNA	Chapter 10, Policy HE-1.7, page 10-36 and Chapter 10, Policies HE-5.1 and HE-5.2, page 10-39.	Yes
191	65584.0(d)(3)	Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.	AFFH/RHNA	N/A	N/A
192	65584.0(d)(4)	Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.	AFFH/RHNA	N/A	N/A
193	65584.0(d)(5)	Affirmatively furthering fair housing.	AFFH/RHNA	No response required.	N/A
194	65584.0(e)	For purposes of this section, "affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing	AFFH/RHNA	Appendix A, Affirmatively Furthering Fair Housing.	Yes

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
		laws.			
195	65584.0(f)	For purposes of this section, “household income levels” are as determined by the department as of the most recent American Community Survey pursuant to the following code sections:	AFFH/RHNA	N/A	N/A
196	65584.0(f)(1)	Very low incomes as defined by Section 50105 of the Health and Safety Code.	AFFH/RHNA	N/A	N/A
197	65584.0(f)(2)	Lower incomes, as defined by Section 50079.5 of the Health and Safety Code.	AFFH/RHNA	N/A	N/A
198	65584.0(f)(3)	Moderate incomes, as defined by Section 50093 of the Health and Safety Code.	AFFH/RHNA	N/A	N/A
199	65584.0(f)(4)	Above moderate incomes are those exceeding the moderate-income level of Section 50093 of the Health and Safety Code.	AFFH/RHNA	N/A	N/A
200	65584.0(g)	Notwithstanding any other provision of law, determinations made by the department, a council of governments, or a city or county pursuant to this section or Section 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08 are exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).	AFFH/RHNA	N/A	N/A
201	65584.09(a)	For housing elements due pursuant to Section 65588 on or after January 1, 2006, if a city or county in the prior planning period failed to identify or make available adequate sites to accommodate that portion of the regional housing need allocated pursuant to Section 65584, then the city or county shall, within the first year of the planning period of the new housing element, zone or rezone adequate sites to accommodate the unaccommodated portion of the regional housing need allocation from the prior planning period.	Rezoning/ RHNA	N/A	N/A
202	65584.09(b)	The requirements under subdivision (a) shall be in addition to any zoning or rezoning required to accommodate the jurisdiction’s share of the regional housing need pursuant to Section 65584 for the new planning period.	Rezoning/ RHNA	N/A	N/A

	Government Code Section (Reference)		General HE Topic	Location in Draft Revised Housing Element, November 2023 Track Change Version	In Compliance?
203	65584.09(c)	Nothing in this section shall be construed to diminish the requirement of a city or county to accommodate its share of the regional housing need for each income level during the planning period set forth in Section 65588, including the obligations to (1) implement programs included pursuant to Section 65583 to achieve the goals and objectives, including programs to zone or rezone land, and (2) timely adopt a housing element with an inventory described in paragraph (3) of subdivision (a) of Section 65583 and a program to make sites available pursuant to paragraph (1) of subdivision (c) of Section 65583, which can accommodate the jurisdiction's share of the regional housing need.	Rezoning/ RHNA	Chapter 10, Appendix D, Sites Inventory Analysis, and Appendix I, Sites Inventory Form.	Yes

DRAFT RESOLUTION 2023-____

**RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF LOS GATOS
RECOMMENDING THAT THE TOWN COUNCIL ADOPT A GENERAL PLAN AMENDMENT
AMENDING THE HOUSING ELEMENT OF THE GENERAL PLAN
FOR THE PERIOD OF 2023-2031 IN SUBSTANTIAL COMPLIANCE
WITH STATE HOUSING ELEMENT LAW.**

GENERAL PLAN AMENDMENT APPLICATION: GP-22-003

**PROPERTY LOCATION: TOWN WIDE
APPLICANT: TOWN OF LOS GATOS**

WHEREAS, the California Legislature has found that, “California has a housing supply and affordability crisis of historic proportions” (Gov. Code Section 65589.5); and

WHEREAS, the Legislature has further found that, “Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration” (Gov. Code Section 65589.5); and

WHEREAS, the Legislature recently adopted the Housing Crisis Act of 2019 (SB 330) which states that, “In 2018, California ranked 49th out of the 50 states in housing units per capita... California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over seven years”; and

WHEREAS, State Housing Element Law (Government Code Sections 65580 et seq.) requires that the Town Council adopt a Housing Element for the eight-year period 2023-2031 to accommodate the Town of Los Gatos (Town) regional housing need allocation (RHNA) of 1,993 housing units, comprised of 537 very low-income units, 310 low-income units, 320 moderate-income units, and 826 above moderate-income units; and

WHEREAS, as provided in Government Code Section 65350 et. seq., adoption of the Housing Element constitutes a General Plan amendment; and

WHEREAS, as provided in Government Code Sections 65352 – 65352.5 the Town mailed a notice to all California Native American tribes provided by the Native American Heritage Commission; and

WHEREAS, no California Native American tribe requested consultation; and

WHEREAS, the Town conducted extensive community outreach beginning in the summer of 2021 and to date has included 19 Housing Element Advisory Board (HEAB) public meetings; a joint study session with the HEAB, Planning Commission, and Town Council; four Planning Commission meetings;

ten Town Council meetings; two community meetings; a community meeting hosted by the Santa Clara County Planning Collaborative, a community meeting hosted by West Valley Community Services; and public engagement at staff hosted information booths; and

WHEREAS, in accordance with Government Code Section 65585 (b), on August 29, 2022, the Town posted the Draft Housing Element and requested public comment for a 30-day review period, and on October 14, 2022, after responding to public comments, the Town submitted the Draft Housing Element to the State Department of Housing and Community Development (HCD) for its review; and

WHEREAS, on January 11, 2023, the Planning Commission held a duly and properly noticed public hearing and recommended that the Town Council adopt the Draft Housing Element, the General Plan Amendment Application, and associated Environmental Analysis; and

WHEREAS, on January 12, 2023, the Town received a letter from HCD that provided a list of recommended revisions needed to comply with State Housing Element Law; and

WHEREAS, the Draft Housing Element was changed to substantially comply with State Housing Element Law, as described in Town Council Resolution No. 2023-006; and

WHEREAS, the matter came before the Town Council for public hearing on January 30, 2023, and was regularly noticed in conformance with State and Town law; and

WHEREAS, to comply with State Housing Element Law, the Town Council considered HCD's findings and adopted Housing Element 2023-2031 (the Housing Element) on January 30, 2023, in compliance with State Housing Element Law; and

WHEREAS, on January 12, 2023, April 14, 2023, and May 30, 2023, the Town received letters from HCD stating that revisions would be needed to conform with Housing Element Law; and

WHEREAS, since the receipt of the comment letters, the Town has met with HCD staff on January 27, 2023, February 9, 2023, April 21, 2023, May 10, 2023, June 21, 2023, September 5, 2023, and November 7, 2023, to discuss proposed edits intended to address HCD's requested changes and obtain preliminary feedback on those edits; and

WHEREAS, the Town conducted additional community outreach, including 19 HEAB public meetings; a joint study session with the HEAB, Planning Commission, and Town Council; four Planning Commission meetings; ten Town Council meetings; a community meeting hosted by the Santa Clara County Planning Collaborative, a community meeting hosted by West Valley Community Services; and public engagement at staff hosted information booths, and amended the adopted Housing Element; and

WHEREAS, in accordance with Government Code Section 65585 (b), on February 3, 2023, March 23, 2023, September 22, 2023, and November 17, 2023, the Town posted proposed amendments to the

adopted Housing Element and requested public comment for a seven-day review period, and on February 13, 2023, March 31, 2023, October 2, 2023, and November 28, 2023, the Town submitted proposed Housing Element amendments to HCD for its review; and

WHEREAS, on November 15, 2023, the Planning Commission held a duly and properly noticed public hearing to consider the draft amendments to the Housing Element, the General Plan Amendment Application, and associated Environmental Analysis, received public comment, and continued the public hearing to a special meeting of November 29, 2023; and

WHEREAS, on November 29, 2023, the Planning Commission held a duly and properly noticed public hearing to consider the draft amendments to the Housing Element, the General Plan Amendment Application, and associated Environmental Analysis; and

WHEREAS, the Planning Commission received testimony and documentary evidence from all interested persons who wished to testify or submit documents and considered all testimony and materials submitted, including the packet of material contained in the Planning Commission Agenda Report for their meeting on November 29, 2023, along with any and all subsequent reports and materials and public comments prepared concerning this matter.

**NOW, THEREFORE, BE IT RESOLVED, THAT THE PLANNING COMMISSION HEREBY FINDS THAT
BASED ON SUBSTANTIAL EVIDENCE IN THE RECORD:**

1. The foregoing recitals are true and correct and are incorporated by reference into this action.
2. An Environmental Analysis was prepared for the adopted Housing Element Update. Although the adopted Housing Element Update could have a significant effect on the environment, all potentially significant effects were analyzed adequately in the Town of Los Gatos 2040 General Plan Environmental Impact Report (EIR), adopted with a statement of overriding considerations on June 30, 2022, pursuant to applicable standards, including CEQA Guidelines Section 15168(c)2, and the adopted Housing Element Update was consistent with the growth projections evaluated in the General Plan EIR. The Planning Commission recommends that the Town Council find all potentially significant effects of the proposed amendments to the adopted Housing Element were analyzed adequately in the Town of Los Gatos 2040 General Plan Environmental Impact Report (EIR) and are consistent with the growth projections evaluated in the General Plan EIR, as shown in the Environmental Analysis attached to the staff report as Exhibit 1.

3. In accordance with Government Code Sections 65585(e) and (f)(1), the Planning Commission has considered HCD's findings and has found that the Town has proposed changes to the adopted Housing Element to substantially comply with Housing Element Law, as shown in the Response Memorandum dated November 16, 2023, attached to the staff report as Exhibit 3.
4. Based on substantial evidence in the record (contained in Appendix D to the proposed amended Housing Element), including development trends, Property Owner Interest Forms, improvement value to land ratio, floor area ratio, structure age, and building height, the existing uses on the non-vacant sites identified in the site inventory are likely to be discontinued during the planning period and do not constitute an impediment to planned residential development on the sites during the planning period.

NOW, THEREFORE, THE PLANNING COMMISSION RESOLVES AS FOLLOWS:

The Planning Commission hereby recommends that the Town Council adopt the proposed amendments to the 2023-2031 Housing Element, the associated General Plan Amendment Application (GP-22-003), and the Environmental Analysis attached to the staff report as Exhibits 1 and 2.

PASSED AND ADOPTED at a special meeting of the Planning Commission of the Town of Los Gatos, California, held on the 29th day of November 2023, by the following vote:

PLANNING COMMISSIONERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

CHAIR, LOS GATOS PLANNING COMMISSION

DATE: _____



November 27, 2023

Joel Paulson
Community Development Director
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

RE: November revised draft of Los Gatos 2023-2031 Housing Element

Dear Mr. Paulson:

The Los Gatos Community Alliance (LGCA) is a group of concerned residents writing to you regarding the revised draft 2023-2031 Housing Element submitted to HCD on November 16, 2023 (the "November draft HE").

Pursuant to AB 215, the Town is required, at least seven days before submitting to HCD any draft revisions, to post any proposed revisions on its internet website and to email a link to such revisions to all individuals and organizations that have previously requested notices relating to the Town's housing element. In a November 13 email and subsequent clarifying email sent on November 14, 2023 to the LGCA, Ms. Whelan, Town Attorney, confirmed that the seven-day public review period did not occur as required by AB 215. Ms. Whelan also stated that the Town staff would contact HCD to request HCD to consider the date of the submittal to be November 27th rather than November 17th. We have not received confirmation that the Town has made this request of HCD; however for the purposes of this public comment letter we have assumed such a request was made.

This is not the first time we have raised concerns regarding the Town's obligations under Govt Code Section 65585(b)(1). One of the purposes of the public review process is to allow the Town to discover public concerns and, when appropriate, to incorporate public comments into its draft revised Housing Elements prior to submission to HCD. In a public comment letter dated September 28, 2023 commenting on the September draft of the revised 2023-2031, LGCA raised specific concerns regarding double-counting of permitted units in both the 5th and 6th cycle. To substantiate this concern, we submitted Table B from the 2022 Annual Element Progress Report along with a comment letter issued by HCD to ABAG dated January 12, 2022 which discussed this very point. Yet the Town ignored the LGCA comment and proceeded to submit the September draft to HCD on Monday October 2, 2023, the very next business day after closing the 7-day public comment period on September 29th without disclosing why it chose to do so.

Then apparently the Town saw the light. In the November draft HE the Town revises the figures to eliminate the inappropriate double-counting of permitted units. Yet instead of crediting the changes to the comment letter provided by LGCA, the Town attributes the changes to, "further clarification from HCD," that permitted units could not be double counted in both 5th and 6th cycle RHNA. We point this out to draw your attention to the Town's legal obligation to consider and act, if appropriate, upon public comments when they are received. The fact that the Town ignored the LGCA comment and submitted the September draft double-counting permitted units in both the 5th and 6th cycle despite the overwhelming information provided to the Town that this was not allowed implies that the Town ignored

Los Gatos Community Alliance
Facts Matter; Transparency Matters; Honesty Matters
www.lgca.town

EXHIBIT 7

the comments and filed the Housing Element revision without giving any consideration to the public comments it received.

The fact that the Town submitted the most recent draft HE on November 17, and subsequently asked HCD to consider the submittal date to be November 27 appears to formalize the Town's policy to ignore public comments. If permitted, it would also make it impossible for the Town to comply with HCD's prior admonishment to, "summarize all public comments and describe how they were considered and incorporated into the element." This comment, among others related to Public Comments, was included HCD's comment letter of May 30, 2023.

On November 22 we requested of the Town's attorney that the Town rescind its inappropriate submission of the November draft HE, and resubmit it to HCD only after it receives and gives appropriate consideration to these and any other public comments. As of this writing, the Town has not responded to that request.

We also note that the Town's posting of the revised Housing Element on November 17 did not include a copy of the transmittal letter that accompanied the submittal. As we know, HCD has asked that such transmittal letters include information regarding any public comments that have been received, as well as how the Town has considered and, if appropriate, incorporated such comments into the submittal. Of course it was not possible to include such information in the submittal of November 17 because the public comment period had not yet commenced.

In light of these facts, and by copy of these comments to HCD, we are requesting HCD to reject (or to require the Town of Los Gatos to rescind) the draft revised Housing Element the Town originally submitted to HCD on November 17, and further to direct the Town to give due consideration to these comments and to any other comments it receives in the public comment period and to, "summarize all public comments and describe how they were considered and incorporated into the element," before resubmitting the draft Housing Element to HCD.

With this background, LGCA is submitting this public comment letter regarding the November draft of the revised 2023-2031 Housing Element, even though such draft has previously – and inappropriately – been submitted to HCD in violation of Govt Code section 65585 (b) (1).

1. Table 10-3 incorrectly computes the RHNA "buffer" percentage and overstates % RHNA surplus

Table 10-3 in the November draft shows a "% Surplus" which is meant to show the surplus or deficit as a percentage of units above the 6th cycle RHNA by income category. However, the percentage has been computed using a "Remaining RHNA" figure that reflects "credits" for projected ADU production and pipeline projects netted against the RHNA. By using "Remaining RHNA" the "% Surplus" is materially overstated (24% vs 19%).

While at first glance this might seem like a minor error, it is important to note HCD has discussed the importance of having a sufficient "buffer" in percentage terms to ensure sufficient capacity exists in the Housing Element to accommodate shortfall of sites to accommodate its remaining RHNA especially in very low- and low-income categories. This is discussed in Govt Code Section 65863 – No Net Loss Law.

There is no reason to compute the % surplus using a “Remaining RHNA” figure except to mislead the reader into believing there is a larger surplus buffer percentage than actually exists.

This creates confusion regarding Program AS – Provide Adequate Sites for Housing, RHNA Rezoning, Lower Income Households on Nonvacant and Vacant Sites Previously Identified. This program calls for rezoning sites to accommodate a 25% buffer above RHNA (not “Remaining RHNA”) to allow for compliance with the No Net Loss Provisions of SB 166.

The following table shows the buffer percentages as presented in the Town’s draft revised November HE submission, as well as the corrected buffer percentages calculated using the appropriate RHNA figures:

	Very Low- Income	Low- Income	Moderate Income	Above- Moderate Income	Total
Single-Family Units & Housing Projects	0	0	0	2	2
ADUs	0	3	11	9	23
Pipeline Projects	0	1	0	190	191
Projected ADUs	60	60	60	20	200
Total	60	64	71	221	416
RHNA	537	310	320	826	1,993
Remaining RHNA	477	246	249	605	1,577
HEOZ Sites	634	357	340	624	1,955
Owner Interest / Conceptual Development Plans	480	283	264	304	1,331
Additional Sites	154	74	76	320	624
Surplus above Remaining RHNA	157	111	91	19	378
% Surplus [vs "Remaining RHNA" as presented in the Town's November 17 submission]	33%	45%	37%	3%	24%
% Surplus [corrected - vs RHNA]	29%	36%	28%	2%	19%

As noted in this table, based on the proper calculation, the total surplus buffer of 19% is less than the 25% goal outlined in program AS.

The Town should change the calculation of the % Surplus to reflect the excess or deficit over the RHNA units by income category and properly reflect this throughout the Housing Element, including Table 10-3. This will also make Los Gatos consistent with every other ABAG jurisdiction’s calculation of a buffer percentage over RHNA.

2. Projected ADU Affordability is inappropriately optimistic

On page D-60 of the November draft Housing Element it is disclosed that the income distribution for projected ADU production is assumed to be 30% very low, 30% low, 30% moderate and 10% above moderate income. This distribution is overly optimistic with reference to the production of very low-income and is not supported by the Town’s actual experience of issued building permits for ADUs

between the years 2020 to 2022. Over this time a total of 98 building permits were issued and none of them were for very low- or low-income units. This fact is not disclosed in the November draft.

If we include the 23 ADU units permitted from June 30, 2022 to January 31, 2023 there were zero very low-income units and 3 low-income units out of a total of 23 issued building permits. That would bring the total over the 3½ years to 121 ADUs permitted with zero being very low income and 3 low-income units for a total of less than 3%. In light of this history, it does not appear that the Town has adopted a reasonable assumption that over the 6th cycle, 60% of projected ADU production would be very low- or low-income units.

LGCA made this same comment on the September draft HE, which had the same ADU income distribution assumption. The Town's reply was that the ADU income distribution was based on guidance provided in the, "Using ADUs to Satisfy RHNA," Technical memo provided by ABAG.

However, the technical memo cited by the Town was prepared to help jurisdictions justify the use of ADUs to help satisfy their RHNA requirements by income category. It was not a study of affordability levels of ADUs. ABAG, however, did complete a study of ADU affordability levels. It published draft results on September 8, 2021 in a technical assistance memo entitled, "Affordability of Accessory Dwelling Units." We now refer to that study (copy attached). This study is highly relevant to establishing a projection of ADU production by affordability level.

The study included a specific recommendation for income distribution of ADUs for jurisdictions with fair housing concerns, which Los Gatos clearly has. **This distribution is 5% very low, 30% low, 50% moderate and 15% above.** This distribution more accurately reflects open market rentals, excluding units made available to family and friends, and has been adopted by other ABAG jurisdictions. This distribution is further validated by data in the survey showing the following distribution of ADU market rate units on the Peninsula: 6% very low, 31% low, 48% moderate and 15% above.

By overestimating the production of very low-income ADU units, the Town is inappropriately reducing its 6th cycle RHNA requirement for this income category to a level not supported by the evidence. This is unfair to all other jurisdictions in ABAG with similar affordable housing concerns, such as the City of Los Altos, which adopted the more appropriate income distribution assumption. We hypothesize the Town used this more aggressive assumption in order to reduce the amount of land required to be rezoned to achieve the Town's 6th cycle very low income RHNA units. By our calculation the Town would need to rezone approximately 10% more land if the study recommendation had been adopted. This is fundamentally wrong and needs to be corrected.

Adopting the distribution recommended for jurisdictions with affordable housing concerns would result in the number of projected ADU units shown in Table 10-3 being adjusted to 10 units for very low income, 60 units for low income, 100 units for moderate and 30 units for above moderate-income categories. More importantly the surplus above RHNA for very low-income units would be reduced to 107 units from 157, reducing the buffer over RHNA from 29% to 20%.

Combining the corrections from Item 1 above with these adjustments, Table 10-3 should be presented as follows:

	Very Low- Income	Low- Income	Moderate Income	Above- Moderate Income	Total
Single-Family Units & Housing Projects	0	0	0	2	2
ADUs	0	3	11	9	23
Pipeline Projects	0	1	0	190	191
Projected ADUs	10	60	100	30	200
Total	10	64	111	231	416
RHNA	537	310	320	826	1,993
Remaining RHNA	527	246	209	595	1,577
HEOZ Sites	634	357	340	624	1,955
Owner Interest / Conceptual Development Plans	480	283	264	304	1,331
Additional Sites	154	74	76	320	624
Surplus above RHNA	107	111	131	29	378
% Surplus above RHNA	20%	36%	41%	4%	19%

3. SB 330 impact on development densities should be added to Section D. 4 – Appropriate Density/Default Density

Section D. 4 discusses default density and development trends. The discussion is out of date and fails to fully disclose the number of SB 330 development applications that have been filed and the potential impact on development densities.

Since December 1, 2022 there have been 8 SB 330 pre-applications filed compared to none over the past 3 years. Two of the 8 applications (405 Alberto Way-52 units and 14859 Los Gatos Blvd-437 units) were final applications as of the date the November draft was submitted to HCD and a third (50 Los Gatos-Saratoga Road-158 units) will be finalized by January 4, 2024 before the January 31, 2024, statutory deadline for rezoning of parcels in the HEOZ. None of the remaining 5 SB 330 applications will be finalized by January 31, 2024. All three of the applications noted above are for parcels included in the Housing Element Site Inventory.

SB 330 applications which allow for the development of parcels at densities below those anticipated in the Housing Element act as a constraint to housing development and an impediment to achieving its RHNA. None of the parcels noted above will be developed at the minimum development density of 30 DU/acre established by the HEOZ. Rather the parcels will be developed at densities ranging from 17.9 DU/acre to 28.8 DU/acre.

As a result of the vested lower densities, these three parcels will reduce the projected development units from the HEOZ from 1,955 to 1,842 units and the total net capacity will be reduced to 2,258 units which is RHNA of 1,993 units plus 265 units for a 13.3 percent buffer, not the 24 percent reported in Table 10-3.

As a result, Programs AQ and AS will not accomplish the goal to accommodate the Town's RHNA and a 25 percent buffer by the end of January 31, 2024.

4. No Net Loss Buffer of 33% for Very-Low-income category is wrong and does not comply with Govt Code Section 65863 – No Net Loss Law

Recent changes to state law require jurisdictions to continually maintain adequate capacity in their site inventories to always meet their RHNA by income category throughout the entire planning period. On page 10-32 the Housing Element discusses the need to maintain a HCD recommended buffer of 15 percent above RHNA to provide a "cushion" if a site is developed below the density projected in the Housing Element or at a different income than projected. This cushion provides the Town with additional sites available to accommodate the remaining balance of the RHNA. Table 10-3 reports a % Surplus of 33% for very-low-income units which we believe is incorrectly determined.

In our September 2023 comment letter, we raised concerns regarding the No Net Loss Law. The Town never responded to that letter. In the November draft submitted to HCD, the Town stated "the Town has received direction from HCD that No Net Loss Law is **only applicable** once a project has been **approved**. The preliminary and formal SB 330 applications that the Town has received have not been approved".

The Town's position is based on Govt Code Section 65863 (c) (2) which does address **the approval** of a development project resulting in fewer units by income. However, Govt Code Section 65863 (a) also requires the Town "**shall ensure** that its housing inventory" or "its housing element programs to make sites available" which "**can accommodate at all times throughout the planning period, its remaining unmet share of regional housing need**".

Adopting a site inventory, which is an administrative action, that is known to be unable to accommodate the Town's RHNA units for very low-income category because existing regulatory conditions present a barrier to development violates this requirement. The Town intentionally ignores the impact of SB 330 applications on Program AQ and on sites included in the Housing Element site inventory. The Town fails to determine if SB 330 sites finalized before January 31, 2024, which are subject to vested development rights, are sufficient to provide for the Town's share of RHNA need for all income levels.

We also direct you to the flow chart "No Net Loss Law Decision Flow Chart" in HCD's No Net Loss comment letter dated October 2, 2019. The flow chart's first step is to determine what type of action is being considered. The second step is to determine if the location of the proposed development is included in the Housing Element site inventory. The third step is to determine "**would approval** of the proposed project result in a lower density than was assumed in the housing element or create a shortfall of capacity to accommodate the RHNA by income group".

Using this flowchart as our basis for analysis, it is clear the SB 330 applications for 14859 Los Gatos Blvd (437 units) and 50 Los Gatos-Saratoga Road (158 units) would result in a shortfall of HEOZ capacity to accommodate the very low income RHNA category as explained in Program AS. Based on the SB 330 applications, 14859 Los Gatos Blvd would have 184 less very low income units and 50 Los Gatos-Saratoga Road would have 86 less very low income units than projected in the site inventory for a total "net loss" of 270 very low income units.

In comparing the 270 unit “net loss” for very low-income category and adjusting for the overstatement of ADU projection for very low-income units discussed above, the site inventory does not have a 157-unit surplus or 33% buffer as shown in Table 10-3 but rather has a 163 units shortfall of capacity for very low-income category for a deficit of 30%. The “net loss” impact of SB 330 on the projected development of very low-income units is well known by Staff and was openly acknowledged by the Town’s Housing Element consultant at the most recent Planning Commission meeting held November 15, 2023.

The lack of sites to accommodate the Town’s RHNA represents a fundamental alteration to the Town’s ability to meet Housing Element Law. To ensure that sufficient capacity exists in the Housing Element to accommodate the RHNA throughout the planning period, a much larger buffer than 15% of very low-income sites needs to be created and more importantly the 30% deficit eliminated.

5. Programs I, N, P and AJ create an obligation to provide financial assistance from the Town’s Affordable Housing Fund (BMP Programs funds) which has over the past three years realized less than \$100,000 “in lieu fees” paid in.

The programs noted above create an obligation for the Town to provide financial assistance, monetary subsidies, funding of home repairs and purchasing affordability covenants for the 6th cycle which the Town has not analyzed as to the financial viability of the programs. The only funding source for these programs is “in lieu fees” that the Town collects only if a developer elects to pay these fees in lieu of building affordable housing under the Town’s BMP program. In limited circumstances, the Town can solely determine payment. Over the past 3 years less than \$100,000 has been paid into the Towns Affordable Housing Fund (BMP Program funds) and as of June 30, 2023 the Affordable Housing Fund had a balance \$3.7m.

Without knowing whether these programs are financially viable, it is inappropriate for the Town to include these programs in the Housing Element. Creating programs where it is unknown whether sufficient financial resources to implement the programs exist is a meaningless paper exercise and does not affirmatively further fair housing in the Town.

This issue was raised in another resident comment letter dated September 29, 2023. The Town’s response that “BMP Housing in-lieu fees were allocated as directed by Town Council through the Town’s annual strategic priorities” does not address the fundamental lack of income received from “in-lieu fees” to fund the financial obligation created by the above-mentioned programs. The financial viability of these programs must be fully analyzed before a commitment can be made.

Summary

Thank you for allowing us to provide our comments. At the end of the day, we all want the same outcome – a Housing Element that fully complies with State Housing Law and is certified by HCD as quickly as possible.

Los Gatos Community Alliance



DRAFT Affordability of Accessory Dwelling Units

A report and recommendations for RHNA 6

Prepared by the ABAG Housing Technical Assistance Team with Funding from REAP

9/8/2021

1. Overview

Accessory dwelling units (ADUs) are independent homes on a residential property with their own cooking and sanitation facilities and outside access. They can either be part of or attached to the primary dwelling or can be free standing/detached from the primary dwelling. Given their smaller size, typically between 400-1000 square feet (Source: Implementing the Backyard Revolution), they frequently offer a housing option that is more affordable by design. They also offer infill development opportunities in existing neighborhoods and a potential supplemental income source for homeowners. Similar are Junior ADUs (JADUs), which are even smaller living units enclosed within a single-family structure. JADUs have independent cooking facilities and outside access, however they may share sanitation facilities with the primary home. Both have become an increasingly popular housing type in recent years.

Recent California legislation has facilitated policy changes at the local level that encourage ADU development by streamlining the permitting process and shortening approval timelines. State law requires jurisdictions to allow at least one ADU and JADU per residential lot. These legislative and policy changes have increased ADU development across many California communities.

In 2020, the Center for Community Innovation at the University of California at Berkeley (UC Berkeley) undertook a comprehensive, statewide survey of ADUs, resulting in a document entitled *“Implementing the Backyard Revolution: Perspectives of California’s ADU Homeowners”*, released on April 22, 2021. This memo uses and extends that research, providing a foundation that Bay Area jurisdictions may build upon as they consider ADU affordability levels while developing their Housing Element sites inventory analyses. This report’s affordability research has been reviewed by the California Department of Housing and Community Development (HCD). While they have not formally accepted it, in initial conversations they did not raise objections to the conclusions. Give HCD’s workload, it is unlikely we will receive additional guidance.

Figure 1: Affordability of ADUs

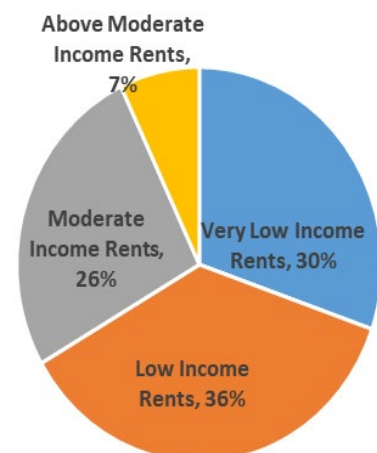




Figure 1 presents a summary of ADU affordability and Table 1 presents a recommendation for assumptions for Housing Elements. See the main body of the report for more information on methodology and assumptions.

We are recommending a conservative interpretation that assumes more moderate and above moderate ADUs than the research found. These assumptions represent a floor for most jurisdictions. If the market conditions in a particular jurisdiction warrant higher assumptions, then additional analysis can be provided to HCD for consideration.

Table 1: Affordability Recommendations for ADUs for Housing Elements

Income	Recommendation
Very Low Income (0-50% AMI)	30%
Low Income (51-80% AMI)	30%
Moderate Income (81-120% AMI)	30%
Above Moderate Income (120+ AMI)	10%

Notes: AMI = Area Median Income. See below for more information on assumptions.

Affirmatively Furthering Fair Housing Concerns

Although ADUs are often affordable, jurisdictions should be cautious about relying on them too heavily because of fair housing concerns. Many ADUs are affordable to lower and moderate income households *because* they are rented to family and friends of the homeowners. If minorities are underrepresented among homeowners, the families and potentially friends of the homeowners will be primarily white. Therefore, relying too heavily on ADUs could inadvertently exacerbate patterns of segregation and exclusion. Additionally, ADUs often do not serve large families, another important fair housing concern. Conversely, ADUs accomplish an important fair housing goal by adding new homes in parts of the city that are more likely to be areas of opportunity.

Jurisdictions with fair housing concerns may want to use more conservative assumptions based on open market rentals, excluding units made available to family and friends, as summarized below:

Table 1: Affordability Recommendations for ADUs for Jurisdictions with Fair Housing Concerns

Income	Recommendation
Very Low Income	5%
Low Income	30%
Moderate Income	50%
Above Moderate Income	15%



Further Outreach and Data

Although HCD has reviewed this memo and believes the conclusions are generally accurate, it is still important for jurisdictions to ensure the information reflects local conditions. As part of ground truthing the conclusions, jurisdictions should provide opportunity for the stakeholders to comment on any assumptions, including affordability assumptions based on this memo.

2. UC Berkeley Survey

In the Fall and Winter of 2020, the University of California at Berkeley's Center for Community Innovation, in collaboration with Baird + Driskell Community Planning, conducted a statewide survey of homeowners who had constructed ADUs in 2018 or 2019¹. Over 15,000 postcards were mailed to households directing them to an online survey. The overall response rate was approximately 5%, but Bay Area response rates were higher, up to 15% in some counties. In total, 387 ADU owners from the Bay Area completed they survey, with 245 of those units available on the long term rental market.

Key takeaways include:

- Just under 20% of Bay Area ADUs are made available at no cost to the tenant.
- An additional 16% are rented to friends or family, presumably at a discounted rent, though the survey did not ask.
- Market-rate ADUs tend to rent at prices affordable to low and moderate income households in most markets.

3. Methodology

ABAG further analyzed the raw data from the UC Berkeley survey, because the authors of *Implementing the Backyard Revolution* did not present their results according to income categories (e.g. very low income, low income, etc.).

This ABAG summary uses the affordability calculator published by the California Department of Housing and Community Development ([link](#)) to define maximum income levels. HCD defines an affordable unit as one where a household pays 30 percent or less of their annual pre-tax income on housing.

The definition of affordable rents shifts with income category (Low, Very Low, etc.), household size/unit size, and geography. The income categories are as follows: Very Low = under 50% of Area Median Income (AMI), Low Income = 50-60% AMI, Moderate = 60-110% AMI.²

¹ A summary is available here - <http://www.aducalifornia.org/implementing-the-backyard-revolution/>

² Please note, these assumptions are more conservative than is typically used, but match HCD's recommendations.



Because some counties have different median incomes, the results are adjusted accordingly. 2020 AMIs were used because the survey was completed in 2020.

Additionally, ABAG made the following assumptions regarding persons per unit, which matched HCD's recommendations:

- Studios 1 person
- 1 Bedrooms 2 people
- 2 Bedrooms 3 people
- 3 Bedrooms 4 people

See the following document for information on HCD's assumptions.

<https://www.hcd.ca.gov/community-development/housing-element/docs/affordability-calculator-2020.xlsx>

4. Summary of ADU Use

Table 2, below, shows the usage of ADUs. Because this report concerns affordability of available dwelling units, those not available for rent (short term rentals, home office and other) are excluded from further analysis.

Table 3. Usage of Accessory Dwelling Units

Region	Friend/ Family Rental	Family - No Rent	Long Term Rental (Open Market)	Short Term Rental	Home Office	Other
East Bay	12%	19%	27%	2%	14%	27%
Peninsula	16%	18%	28%	4%	14%	20%
North Bay	13%	16%	33%	2%	8%	28%
Bay Total (9 Counties)	14%	18%	29%	3%	13%	24%
Statewide Total	16%	19%	30%	2%	12%	21%

Other includes homeowners who live in the ADU, needs repairs, empty, used as extra bedroom, etc. The response rate in San Francisco was too low for meaningful comparison so it is not presented separately, but is included in the Bay Area total. East Bay includes Alameda and Contra Costa Counties, Peninsula includes San Mateo and Santa Clara Counties, North Bay includes Marin, Sonoma and Napa Counties.

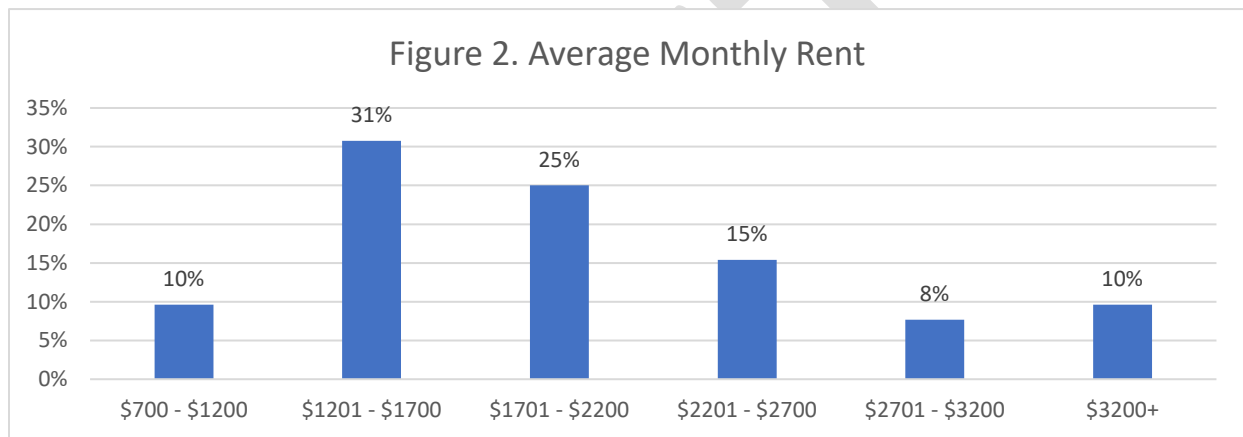


5. Affordability of ADUs

Rental Data

The analysis found that many ADUs are made available to family members, often at no rent. The survey did not query the rent of family/friend rentals, only asking if rent was charged.

Of those ADUs available on the open market (not rented to family or friends), most charged rents between \$1,200 and \$2,200, as shown in in Figure 2.



Assigning ADUs to Income Categories

This report's affordability analysis has two parts:

1. Market Rate ADUs: Those not rented to friends or family; and
2. Discount Rate ADUs: Those rented to family or friends for discounted or no rent

Market Rate ADUs

Market rate ADUs were usually affordable to low or moderate income households, based on the methodology identified above. Depending on the part of the region, the ABAG analysis found:

- Very Low Income: 0-7% of market rate units were affordable to very low income
- Low Income: 15-44% of market rate units were affordable to low income
- Moderate income: 40-70% of market rate units were affordable to moderate income households.
- Above moderate: 9-15% of market rate units were affordable to above moderate income households.



The data is summarized in the chart below.

Table 4. Affordability of Market Rate Units

	Very Low	Low	Moderate	Above Moderate
East Bay	0%	15%	70%	15%
Peninsula	6%	31%	48%	15%
North Bay	7%	44%	40%	9%

This chart only shows ADUs rented on the open market. The response rate in San Francisco was too low for meaningful comparison so it is excluded from this analysis.

Discount Rate ADUs

Based on previous HCD precedent, this analysis uses actual rents to determine affordability. The occupant's relationship to the owner is secondary, the relevant factor is the rent charged. (Please note the potential fair housing concerns that can arise from this approach). Specifically, this analysis assigns units made available to family or friends available at no rent as very low income. Additionally, this analysis assigns units *rented* to family or friends as low income³.

Combined Market and Affordable ADUs

Table 5, below, combines the information for discounted and market rate ADUs.

Table 5. Usage of No Rent/Discount Rent ADUs and Affordability - Combined

Region	Friend/ Family Rental	Family - No Rent	Very Low Income Rents	Low Income Rents	Moderate Income Rents	Above Mod. Income Rents
East Bay	20%	33%	0%	7%	33%	7%
Peninsula	24%	28%	3%	15%	23%	7%
North Bay	20%	25%	4%	24%	22%	5%
Bay Total (9 Counties)	22%	28%	2%	14%	26%	7%
State-Wide Total	24%	28%	1%	9%	23%	14%

The response rate in San Francisco was too low for meaningful comparison so it is not presented separately, but is included in the Bay Area total.

³ The survey did not ask the rent of units that were rented to family members.



Assigning the family/friends ADUs to income categories produces the following results:

Table 6. Affordability Including Family/Friends Rentals

Region	Very Low Income Rents	Low Income Rents	Moderate Income Rents	Above Mod. Income Rents
East Bay	33%	27%	33%	7%
Peninsula	31%	39%	23%	7%
North Bay	29%	44%	22%	5%
Bay Total (9 Counties)	30%	36%	26%	7%
Statewide Total	29%	33%	23%	14%

This chart combines ADUs made available for free with Very Low Income and ADUs available for a discount with the Low Income category. The response rate in San Francisco was too low for meaningful comparison so it is not presented as its own line, but is included in the SF Bay Area Total.

Figure 2 shows affordability levels for the region. It is a graphical representation of the Bay Area as a whole.

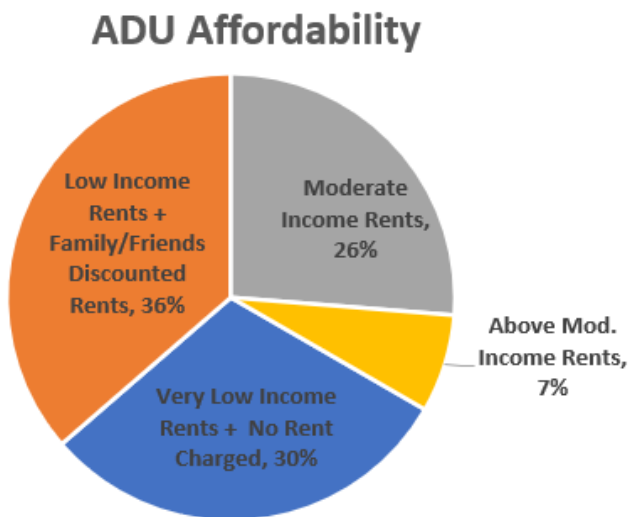


Figure 2: Results shown for 9-county Bay Area. "Very low" rents include units available to family or friends at no cost. "Low" rents include discounted family rentals.

6. Additional Research and Considerations

In general, ADUs are affordable for several reasons:

- Many units are available for no or low cost rent to family members or friends. Additionally, a smaller number of owners intentionally rent their ADUs below market because they believe affordable housing is important. Source: Implementing the Backyard Revolution
- ADUs tend to be fewer square feet than units in apartment buildings after controlling for bedroom size, which results in lower prices. Source: Wegmann & Chapple (2012)
- ADU owners tend to prefer their choice of tenant versus maximizing rent. Additionally, they will often not significantly raise rents once they have a tenant they like. Source: Baird + Driskell homeowner focus groups.
- ADU owners often do not know the value of their unit so they may underprice it unintentionally. Source: Baird + Driskell homeowner focus groups.

A number of other studies have found that many ADUs are used as housing for friends or family for free or very low cost, consistent with the UC Berkeley Report. A selection of these are outlined below:

- A 2012 UC Berkeley publication entitled “Scaling up Secondary Unit Production in the East Bay” indicates that approximately half of all secondary dwelling units are available for no rent.⁴
- A 2018 report entitled “Jumpstarting the market for ADUs” surveyed ADUs in Portland, Seattle, and Vancouver and found that approximately 17% of ADUs were occupied by a friend or family member for free.⁵
- A 2014 analysis entitled “Accessory dwelling units in Portland, Oregon: evaluation and interpretation of a survey of ADU owners” found that “18% of Portland ADUs are occupied for free or extremely low cost.”⁶

7. Notes

This report was funded by the Regional Early Action Grant, which the state legislature provided to ABAG and other council of governments. Analysis was conducted by Baird + Driskell Community Planning. Please contact Josh Abrams, abrams@bdplanning.com for more information.

⁴https://communityinnovation.berkeley.edu/sites/default/files/scaling_up_secondary_unit_production_in_the_east_bay.pdf?width=1200&height=800&iframe=true

⁵ http://ternercenter.berkeley.edu/uploads/ADU_report_4.18.pdf

⁶ <https://accessorydwellings.files.wordpress.com/2014/06/adusurveyinterpret.pdf>

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TOWN OF LOS GATOS
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
(408) 354-6872 Fax (408) 354-7593
planning@losgatosca.gov

CIVIC CENTER
110 E. MAIN STREET
LOS GATOS, CA 95030

November 28, 2023

Paul McDougall
State Department of Housing and Community Development
C/O Land Use and Planning Unit
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833

Re: Town of Los Gatos Draft Revised 2023-2031 Housing Element

Dear Mr. McDougall,

This letter serves to transmit a formal resubmittal of the Town of Los Gatos' Draft Revised 2023-2031 Housing Element, implementing changes in response to comments in the Draft Preliminary Review Matrix provided by Jose Jauregui.

Draft Revisions

This Draft Revised Housing Element (dated November 2023) responds to the Draft Preliminary Review Matrix provided by HCD on November 7, 2023. The Town has made several modifications to the Housing Element, detailed in the "Staff Response" column of the attached Draft Preliminary Review Matrix with Responses. Included in this formal resubmittal are the following documents:

- The Town's response memorandum to HCD's November 7, 2023, Draft Preliminary Review Matrix;
- The Draft Revised Housing Element showing the track changes of the October 2, 2023, draft, as well as the additional changes, in response to the November 7, 2023, matrix which are highlighted in yellow;
- A clean copy of the Draft Revised Housing Element;
- An electronic copy of the Sites Inventory Form; and
- Written comments submitted to the Town during the seven-day public review period, November 16, 2023, through November 27, 2023.

Housing Sites Inventory

The sites, calculated at their net, minimum density, in addition to Accessory Dwelling Unit Projections, Pipeline Projects, and RHNA credits for housing units that have been approved, permitted, or received a certificate of occupancy since the beginning of the RHNA projected period have a total, net capacity of 2,371 units. This inventory accommodates a surplus of approximately 24 percent above the Town's RHNA of 1,993 housing units.

Public Review

Pursuant to Government Code 65585(b)(1), the Town has posted the modifications to the Town's Housing Element website and provided notification to all individuals and organizations that previously

requested notices, as well as all parties on the Town's notification list, including those who have previously commented on the Housing Element. The Draft Revised Housing Element was posted on November 16, 2023, more than seven days prior to submittal of the Draft Revised Housing Element to HCD for review, consistent with AB 215 requirements.

Compliance with Government Code Section 65585:

The Town received correspondence from the Los Gatos Community Alliance ("LGCA") pointing out that the Town had submitted proposed revisions to HCD prior to the close of the seven-day public comment period. Town staff did provide HCD, via email, with an informal internal submittal of the Draft Revised Housing Element (November 2023), noting that the seven-day public review would end on November 27, 2023. Upon receipt of the LGCA's letter and further review of Government Code Section 65585(b), the Town's Community Development Director contacted HCD to ask that the Town's submittal be deemed submitted at the end of the day on November 27th. This letter constitutes a formal resubmittal of the Draft Revised Housing Element (November 2023), following the seven-day public comment period.

In addition, the responses below have been provided addressing the public comments received during the seven-day public comment period.

Response to Public Comments Received During the Seven-Day Public Comment Period:

During the seven-day public comment period, November 16, 2023, through November 27, 2023, the Town received one public comment letter from the Los Gatos Community Alliance ("LGCA"). The following provides a response to each public comment submitted and includes how the comments were incorporated into the review, if appropriate.

- 1) LGCA Comment #1, Table 10-3: The method for calculating the percentage of the surplus is consistent with other Santa Clara County jurisdictions who have received certification of their Housing Element. Additionally, this method has been utilized by the Town's Housing Element consultant with approximately 40 jurisdictions who have received certification of their Housing Element. The buffer of 25 percent, as identified in Implementation Program AS is a reflection of the March 2023 version of the Draft Revised Housing Element and could be revised to reflect the November 2023 version of the Draft Revised Housing Element, which provides a 24 percent buffer.
- 2) LGCA Comment #2, Projected ADU Affordability: The income and affordability distribution of ADU's in the Housing Element was based on a technical memorandum prepared by the Association of Bay Area Governments (ABAG), titled 'Using ADU's to Satisfy RHNA Technical Memo.' The ABAG information provided by the LGCA was a draft version. The Town is utilizing the recommended percentages, provided in the final version of the ABAG technical memorandum.
- 3) LGCA Comment #3, SB 330 Impact: The Town has received direction from HCD that No Net Loss law is only applicable once a project has been approved. The preliminary and formal SB 330 applications that the Town has received have not been approved. If and when a formal application is submitted and the project is approved that will trigger the "no net loss" requirements, and the Town will comply with the "no net loss" requirements.
- 4) LGCA Comment #4, No Net Loss Buffer: As discussed in the response to comment #3, the Town has received direction from HCD that No Net Loss law is only applicable once a project has been

approved. The preliminary and formal SB 330 applications that the Town has received have not been approved. If and when a formal application is submitted and the project is approved that will trigger the “no net loss” requirements, and the Town will comply with the “no net loss” requirements.

- 5) LGCA Comment #5, Program References to Town’s Affordable Housing In Lieu Fund: The Below Market Price (BMP) housing in-lieu fees must be used for affordable housing purposes and are allocated as directed by the Town Council as part of the budgeting process. Every year the Town Council identifies their strategic priorities as an initial step in the budget development process. The Town Council has made affordable housing partnerships a 2023-2025 Strategic Priority.

The public comments provided during the seven-day public comment period above were considered and it was determined that no revisions were required to the Draft Revised 2023-2031 Housing Element (November 2023).

On behalf of the Town of Los Gatos, thank you for the review of the Town of Los Gatos’ Draft Revised Housing Element. The Town looks forward to receiving HCD’s findings/comment letter on December 1, 2023, and potentially receiving additional direction and feedback from HCD that would assist the Town in the evaluation and decision-making process to bring the Housing Element into a compliance status by or before the end of the 60-day review period. Questions or comments on the Housing Element may be directed to:

Joel Paulson, Community Development Director
jpaulson@losgatosca.gov
408-354-6879

Sincerely,



Joel Paulson
Community Development Department
Town of Los Gatos

Enclosures:

- Response Memorandum to HCD’s November 7, 2023, Draft Preliminary Review Matrix
- Town of Los Gatos Draft Revised Housing Element with track changes
- Town of Los Gatos Draft Revised Housing Element clean copy
- Electronic Copy of the Sites Inventory Form
- Written comments submitted to the Town during the seven-day public review period, November 16, 2023, through November 27, 2023

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From: Rick Van Hoesen [REDACTED]
Sent: Tuesday, November 21, 2023 10:17 PM
To: Gabrielle Whelan <GWhelan@losgatosca.gov>
Cc: [REDACTED]; Laurel Prevetti <LPrevetti@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>; Wendy Wood <WWood@losgatosca.gov>; jose.jauregui@hcd.ca.gov; paul.mcdougall@hcd.ca.gov; Phil Koen <[REDACTED]>; Maria Ristow <MRistow@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Rob Moore <RMoore@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>
Subject: Re: Town of Los Gatos Housing Element

Dear Ms. Whelan,

Yes, agreed. We do need to be talking about the same thing. If the "proposed revisions" you refer to are the documents that were filed with HCD on November 16, then we are talking about the same thing. However, your assertion that, "This was not the Town's submittal of a revised draft Housing Element," rings hollow. In fact the footer on every page of the submittal says, "HCD Draft Revised 2023-2031 Housing Element." Further, the HCD website is clear that there are only four types of submittals:

1. First draft submittals
2. Draft revised submittals
3. Draft adopted submittals
4. Adopted Housing Elements

These are set forth on HCD's website at: <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> under the Housing Element Submittal topic.

It seems clear that the Town's November 16 submittal was a Draft revised submittal. Accordingly, the documents submitted were subject to the public comment period, as made clear on the same web page, "any revisions received during the course of HCD's review are also subject to the seven-day posting requirement prior to submittal to HCD" (emphasis added).

The requirement to conduct the seven-day public comment period prior to submittal is essential to the public comment process. It is the only way for the public to comment on the document and, if appropriate, for the Town to incorporate such comments into the document prior to its submission to HCD. The intent of the public comment period is not (only) to provide the public's comments to HCD, but also for those comments to be provided to the Town for possible revisions to the document before it is submitted to HCD. The course of action adopted thus far by the Town to, "ask HCD to consider the date of submittal to be November 27th," makes a sham of the public comment process. In essence it presupposes that the document will not be changed as the result of any public comments because the already-submitted document would automatically be re-submitted on the same day the public comment period ends.

Accordingly, we again request that the Town notify HCD it is rescinding the November 16 submittal and (presumably) that the Town intends to make a submittal after the public comment period has lapsed and the Town has had an opportunity to receive and consider any public comments and, if appropriate, to incorporate public feedback into the draft HE. At a minimum, this will enable the Town to include any public comments along with the submittal at the time it is submitted.

We understand that the Town is behind where it wants to be with respect adopting its new Housing Element. That unfortunate result was set in motion many months ago when the Town Staff elected to focus their efforts on a new General Plan before a Housing Element was formulated, much less adopted. But shortcutting the process in pursuit of a quick result cannot trump the laws and regulations that govern the process.

Also, in our LGCA letter two days ago to Ms. Prevetti (the letter you responded to) we asked that a copy of the cover letter accompanying the November 16 submittal be provided. We still have not received that letter. I have since filed a public records request with the Town requesting that letter, but would appreciate it if you could provide it as soon as possible.

Finally, the claim that, "Staff had not drafted the revisions at the time of the 11/15 Planning Commission meeting," strains credulity – at least as formulated. The sheer number and bulk of redlines in the draft that was submitted to HCD the day after the Planning Commission meeting simply would not have been possible to draft in less than 24 hours. Might it be more accurate to say that Staff had not finalized the drafting of the revisions at the time of the Planning Commission meeting? Either way, the question remains as to why it was not disclosed to the PC – and the public – at that meeting that a submittal was to be made the very next day.

Thank you.

Rick Van Hoesen, for Los Gatos Community Alliance

On Tue, Nov 21, 2023, at 3:08 PM Gabrielle Whelan <GWhelan@losgatosca.gov> wrote:

Hello, Mr. Van Hoesen.

1. I want to make sure we are talking about the same thing. The Town gave proposed revisions to its HCD reviewer for his consideration in response to mid-review cycle comments he provided regarding the Town's 10/2 submittal. This was not the Town's submittal of a revised draft Housing Element. The proposed revisions were submitted to HCD to get HCD's feedback on whether HCD would be prepared to certify a revised draft Housing Element if it were adopted with those edits and then submitted to HCD for certification. Public comments will still be provided to HCD and taken at both the upcoming Planning Commission and Town Council meetings. The Planning Commission meeting is scheduled for 11/29 and the Town Council meeting has not yet been scheduled. Only after the Town Council has received a recommendation from the Planning Commission and held its public hearing will a revised draft Housing Element be adopted and submitted to HCD for certification.
2. Originally, HCD stated that they would not be able to provide the Town with mid-review cycle comments on the 10/2 submission. On October 31st (correction: not November 7th as indicated in my original email below), the Town's HCD reviewer told the Town that he would be able to meet with Town staff to provide mid-review cycle comments and scheduled a meeting for 11/7 (correction: not 11/14 indicated in my original email below). The 11/15 Planning Commission was noticed before the Town knew that HCD would in fact be able to meet with the Town to provide mid-review cycle comments. As a result, the 11/15 Planning Commission meeting was used to discuss the mid-review cycle comments from HCD and the Planning Commission continued its meeting to 11/29. Staff had not drafted the revisions at the time of the 11/15 Planning Commission meeting so the matrix that was provided stated that the revisions were in progress. The proposed revisions were completed and posted on 11/16 (correction: not 11/17 as indicated in my original email below).
3. The purpose of the proposed schedule is intended to obtain HCD certification of an amended Housing Element as soon as possible. State law requires that the Planning Commission make a recommendation to the Town Council on adoption. November 29th is the last date on which the Planning Commission can make a recommendation and staff can notice a Town Council meeting in 2023. If the Planning Commission makes its recommendation after December 1st, the Town Council will vote on the Housing Element mid-January. With the proposed schedule, the Town Council will have the benefit of HCD's 12/1 letter prior to adoption.

Please let me know if you have other questions or would like to meet. Thank you.

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Gabrielle Whelan • Town Attorney

Town Attorney's Office • 110 E Main Street, Los Gatos, CA 95030

Desk: 408.354.6818 • gwhelan@losgatosca.gov

www.losgatosca.gov • <https://www.facebook.com/losgatosca>

From: Rick Van Hoesen [REDACTED]
Sent: Monday, November 20, 2023 4:38 PM
To: Gabrielle Whelan <GWhelan@losgatosca.gov>
Cc: [REDACTED]; Laurel Prevetti <LPrevetti@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>; Wendy Wood <WWood@losgatosca.gov>; jose.jauregui@hcd.ca.gov; paul.mcdougall@hcd.ca.gov; Phil Koen [REDACTED]; Maria Ristow <MRistow@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Rob Moore <RMoore@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>
Subject: Re: Town of Los Gatos Housing Element

Hello Ms. Whelan,

Thank you for your reply.

Yes, the Los Gatos Community Association (LGCA) does have several questions (more may follow).

1. As we know, an important purpose of the public comment period is to provide the public with advance notice of the proposed draft housing element and to give the public the ability to provide comments on the proposed filing. Equally importantly, the public comment process gives the Town the opportunity to consider and, when appropriate, to incorporate those comments into its Housing Element before the HE is filed with HCD. As a community organization planning to make comments on the draft Housing Element, LGCA is greatly concerned that there is no process for such comments to be considered by the Town and incorporated into the draft. It creates the impression that the public comment process is for appearances only, and is simply being given lip service by the Town in an attempt to technically satisfy the public comment period without actually considering or incorporating any resulting comments. Therefore would you please describe how the process you have outlined (changing the date of submittal for the already-submitted revised Housing Element draft to November 27) provides the ability for Town to receive and consider public comments and then, when appropriate, incorporate any changes resulting from those comments into the draft submittal?
2. While we did not actually ask the second question you posit (namely, why were the most recent HE revisions not taken to the HEAB), we nonetheless wonder how the sequence of events occurred on November 15 and 16. The Planning Commission met on November 15 with the agenda item, "Consider and Make a Recommendation to the Town Council on the Draft Revised 2023-2031 Housing Element." During that meeting it appears that there was discussion of the, "mid-review cycle recommendations from HCD that were received on November 14th." And yet to all outward appearances the Planning Commission was not aware of (and in any event did not publicly discuss) the draft Housing Element that the Town staff was to submit the very next day - at least in part in response to those same "mid-review cycle recommendations." Why was the Planning Commission (and the public) not made aware at that meeting that the very next day a draft Housing Element was to be filed by Town Staff in response to the HCD mid-cycle recommendations that were discussed at that meeting?
3. Of course it is known by the Town that HCD is to provide its comment letter on the September draft Housing Element on or before December 1. Knowing that, why would the Town propose to submit yet another draft HE on November 27, just 4 days before the latest date it is to receive HCD's comments? Further, why would the Planning Commission propose to make a

recommendation to the Town Council on November 29, just 2 days before that date? Why not wait to receive HCD's letter on or before December 1 and make all the recommendations and submittals with full knowledge of HCD's latest comments?

Thank you.

Rick Van Hoesen & Jak Van Nada

On Mon, Nov 20, 2023 at 3:13 PM Gabrielle Whelan <GWhelan@losgatosca.gov> wrote:

Dear Mr. Van Hoesen and Mr. Van Nada:

Thank you for your November 19th letter regarding the revised draft Housing Element. I have reviewed Government Code Section 65585(b) and it does provide that a seven-day public review period is required before a draft revision to the Housing Element is sent to HCD. Accordingly, Town staff will be contacting HCD to ask HCD to consider the date of submittal to be November 27th rather than November 17th. This will provide the public with an opportunity to provide written comment for a seven-day period plus a buffer for the Thanksgiving holiday. Town staff will also update the Town's Housing Element web page with this information. As you may know, the draft revised Housing Element will be coming to the Planning Commission for consideration on November 29th. At that meeting, staff will be asking the Planning Commission to make a recommendation regarding adoption of the revised draft Housing Element.

You also asked why the most recent revisions made in response to HCD's mid-review cycle comments were not taken to the Housing Element Advisory Board ("HEAB") for a recommendation to the Planning Commission. The HEAB did review previous drafts of the Housing Element. Most recently, the HEAB made a recommendation to the Planning Commission and Town Council before the Town's October 2nd submittal to HCD. The November proposed revisions were made in response to mid-review cycle recommendations from HCD that were received on November 14th. Given the interest in adopting, and obtaining certification of, the revised draft Housing Element in a timely manner, it is not practical to return to the HEAB every time revisions are proposed.

Please let me know if you have any follow-up questions.



Gabrielle Whelan • Town Attorney

Town Attorney's Office • 110 E Main Street, Los Gatos, CA 95030

Desk: 408.354.6818 • gwhelan@losgatosca.gov

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